REMARKS

Claims 1, 3-8 and 10-28 are pending in this application and stand rejected under 35 U.S.C. §103(a) over Kiang in view of Bortz. None of the claims is currently amended. Reconsideration is respectfully requested.

The presently claimed invention is allowable because **Passed** optical signals coming from the switch device are combined with **Add** optical signals via a combiner. This distinguishing feature was discussed in the previous amendment and the Office now concedes that Kiang fails to teach that feature, but asserts that a new reference, Bortz, teaches the feature. In particular, the Office asserts that Bortz teaches that **Add** optical signals are not inputted to the fabric at Figs. 2c and 5a, and col. 14, lines 3-5, col. 11, lines 20-27 and col. 7, lines 35-45. However, Bortz fails to teach **Add** optical signals in any context. For example, in Figs. 2c and 5a Bortz shows a switch in which only **Passed** optical signals are provided to combiners. This teaching is reinforced by the cited passage at col. 11, lines 20-27 which states "passive couplers 66 can be provided at the output ports 30 *to combine the signals passing through selective switch elements* 34." (emphasis added). In other words, Bortz merely combines **Passed** optical signals and never introduces **Add** optical signals. The other cited passages also fail to discuss **Add** signals and, oddly, none of the cited passages describe the cited figures. Therefore, neither Bortz nor Kiang, alone or in combination, teach that **Passed** optical signals coming from the switch device are combined with **Add** optical signals via a combiner.

The distinguishing feature discussed above is recited in each of the independent claims. For example, claims 1 and 8 recite "a combiner operably coupled to combine passed optical data streams from the photonic switching fabric together with added optical data streams." Similarly, claim 16 recites "a combiner operably coupled to combine passed optical data streams from the

MEMs together with added optical data streams which are not from the MEMS." Claims 17, 22 and 28 include similar distinguishing recitations. Claims 3-7, 10-15, 18-21, and 23-27 are dependent, either directly or indirectly from the independent claims and recite further distinguishing features. For the reasons stated above, Applicant requests that the rejections based on the combination of Kiang and Bortz be withdrawn.

The Office also issued a provisional double patenting rejection based on copending application 09/929,582. Applicant respectfully requests withdrawal of that rejection because, unlike this application, the '582 application describes a cross-connect between the drop-only fabric and the combiner. See, e.g., Fig. 2 and associated text. Further, the feature is recited in claims of the '582 application, e.g., as the "photonic switching logic" element in claim 1. Since that feature is not claimed in this application the rejection is improper and withdrawal is therefore requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Holmes W. Anderson, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

August 8, 2005
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Docket No. 2204/A78 120-207
Dd: 06/11/2005